

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

AGUSTIN VELEZ,

Plaintiff,

v.

EDWARD F. WALL, CATHY JESS,  
MICHAEL BAENEN, JESSICA LEGOIS and  
AMY BASTEN,

Defendants.

ORDER

13-cv-445-bbc

---

On November 18, 2013, this court entered an order denying plaintiff leave to proceed *in forma pauperis* and dismissing this case. Now plaintiff has moved for an order requesting to pay the remainder of the filing fee in this case from his release account.

Under the Prison Litigation Reform Act, an inmate who files a lawsuit in federal court under the *in forma pauperis* statute must pay the \$350 filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the court in installments of 20% of the preceding month's income in accordance with 28 U.S.C. § 1915(b)(2). On July 5, 2013 plaintiff paid his assessed \$35.82 initial partial payment of the filing fee in this case, and has since been paying the remainder of the fee in monthly installments.

Although it is commendable that plaintiff is taking responsibility for paying his remaining balance promptly, he cannot use his release account funds in the manner he requests. The language in 28 U.S.C. § 1915(b)(1) suggests that prison officials are required to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). However, with the exception of initial partial payments, federal courts lack the authority to tell state officials whether, and to what

extent, a prisoner should be able to withdraw money from his release account. Because plaintiff cannot use his release account funds to pay the remaining balance of the \$350 filing fee, I will deny his motion.

ORDER

IT IS ORDERED that plaintiff's motion for an order directing prison officials to pay the remainder of his filing fee from his release account, dkt. #20, is DENIED.

Entered this 5<sup>th</sup> day of February, 2014.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge